

REDACTED

District Court, Arapahoe County, Colorado
Arapahoe County Courthouse
7325 S. Potomac St., Centennial, CO 80112

THE PEOPLE OF THE STATE OF COLORADO,
Plaintiff

v.

JAMES HOLMES,
Defendant

DOUGLAS K. WILSON, Colorado State Public Defender
Daniel King (No. 26129)
Tamara A. Brady (No. 20728)
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Filed

MAR 27 2013

CLERK OF THE COMBINED COURT
ARAPAHOE COUNTY, COLORADO

σ COURT USE ONLY σ

Case No. **12CR1522**

Division 22

NOTICE IN RESPONSE TO THIS COURT'S SCHEDULING ORDER (C-023)

James Holmes, through counsel, provides the following notice in response to this Court's scheduling order:

1. Prior to arraignment, Mr. Holmes made an offer to the prosecution to resolve this case by pleading guilty and spending the rest of his life in prison, without any opportunity for parole. As previously stated in court, counsel for Mr. Holmes are still exploring a mental health defense, and counsel will vigorously present and argue any and all appropriate defenses at a trial or sentencing proceeding, as necessary. Nevertheless, Mr. Holmes is currently willing to resolve the case to bring the proceedings to a speedy and definite conclusion for all involved.

2. The prosecution at this time has not accepted that offer because it may choose to pursue the death penalty. Consequently, it appears the only impediment to a resolution of this case would be if the prosecution chooses to seek the death penalty. If the prosecution elects not to pursue the death penalty, then it is Mr. Holmes' position that this case could be resolved on April 1.

3. If, however, the prosecution elects to pursue the death penalty, Mr. Holmes submits the following scheduling suggestions for consideration by the Court and prosecution. In the recent capital cases of People v. Sir Mario Owens, People v. Robert Ray, and People v. Josiah Sher, the Court and parties created a schedule of motions issues to be addressed by category on approximately a monthly basis. Mr. Holmes proposes that motions in this case be categorized as follows:

- a. Discovery/Access to Evidence Issues
- b. Housekeeping/Procedural Motions
- c. Challenges to the Charging Document
- d. Suppression Issues
- e. Motions Pertaining to Expert Testimony/Scientific Evidence

f. Motions Pertaining to Jury Selection

g. Substantive and Procedural Motions Related to the Sentencing Hearing and the Death Penalty

h. Evidentiary Motions/Motions *in Limine*

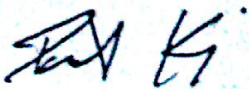
i. Miscellaneous Motions

4. The defense proposes litigating Suppression Issues and Challenges to the Charging Document during the first set of motions hearings.

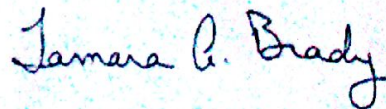
5. Thereafter, the defense suggests that the court consider Motions Pertaining to Expert Testimony/Scientific Evidence, Motions Pertaining to Jury Selection, Substantive and Procedural Motions Related to the Sentencing Hearing and the Death Penalty and, finally, Evidentiary Motions and Motions *in Limine*. The remaining categories of motions, such as discovery or housekeeping motions, would be addressed on an as-needed basis.

6. The current trial date would obviously need to be vacated. The pretrial litigation related to a capital case cannot be completed by the current trial date. In addition, the current trial is scheduled for only four weeks. The recent capital jury trials of Sir Mario Owens, Robert Ray, and David Bueno all took closer to four months, and none of those cases involved near as many charged counts or victims as this case, nor did they involve possible mental health defenses. Mr. Holmes would be willing to waive speedy trial while pretrial motions are initially being litigated, and the parties and the Court could assess setting a trial date at a later time.

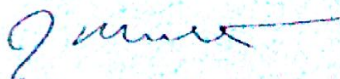
Mr. Holmes files this motion, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.



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Dated: March 27, 2013